IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

WP(C).No. 31110 of 2007(C)

AGAINST THE ORDER IN IA 1267/07 IN
OS.39/2004 of SUB COURT, MUVATTUPUZHA
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PETITIONER:

ELEYAMMA, W/O.VARGHESE, AGED 72 YEARS,
RESIDING AT KUNNATHU KALAPURACKAL HOUSE,
NESHOOR KARA, MANEED VILLAGE, MUVATTUPUZHA.

BY ADV. SRI.GEORGIE SIMON

RESPONDENTS:
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1. RAJU, S/O.CHOTHI, AGED 35 YEARS,
PATHARIPPATTU HOUSE, MANEED KARA,
MANEED VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.

2. GOPI, S/O.AYYAPPAN, AGED 35 YEARS,
MARATTITHADATHEL, (CHUNDAMALAYIL) HOUSE,
MANEED KARA, MANEED VILLAGE.

3. GOPI, S/O.KURUMBAN, AGED 36 YEARS,
VADAKKEMALAYIL HOUSE, NECHOOR KARA,
MANEED VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.

4. KUNJAPPAN, S/O.PALAN, AGED 36 YEARS,
MATTATHIL HOUSE, NECHOOR KARA,
MANEED VILLAGE, MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.31110 of 2007

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Dated this the 22nd day of October, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Subordinate Judge, Muvattupuzha in I.A.No.1267 of 2007 in O.S.No.39 of 2004. The court below ordered that an Amin will be deputed to remove the wall on the southern side of plaint B schedule way in front of the house of the fourth petitioner/4th defendant as seen in Exts.C2 and C2(a) Commission report and rough sketch.

2. To start with the court below considered two applications, I.A.No.489 of 2004 and I.A.No.645 of 2004 and allowed I.A.No.489 of 2004 whereby directing the plaintiff to remove the newly installed two gates in plaint B schedule way and the wall on the southern side of plaint B schedule way in front of the house of the fourth petitioner/fourth defendant within one month. Against that order, a C.M.A. was preferred and it was also dismissed. Thereafter, a Writ Petition, W.P.(C) No.17171 of 2006

was filed and by an order dated 2.1.2007 passed in the Review Petition this Court confirmed the order of the court below, but held that one of the gates need not be removed. So, by the proceedings which ended in the High Court except for the removal of one gate, the order passed by the lower court stands confirmed. It is that order which is sought to be implemented by Ext.P4 order. When the court below has passed an order after considering the entire materials and the way in which the plaintiff has approached the court, the court had exercised its extra ordinary jurisdiction to put back the property into its original position by way of interim mandatory injunction, which has been affirmed by this Court.

Therefore I do not find any mistake committed by the court below in passing Ext.P4 order and therefore the Writ Petition lacks merits and it is dismissed.

M.N.Krishnan,
Judge.

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